LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6325 | **NOTE PREPARED:** Dec 13, 2011
BILL NUMBER: SB 163 | **BILL AMENDED:**

SUBJECT: Economic Development Incentive Accountability.

FIRST AUTHOR: Sen. Randolph | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
DEDICATED
FEDERAL

Summary of Legislation: This bill adds various job and employee definitions to the Indiana Economic Development Corporation (IEDC) laws. It requires all records related to taxpayer-funded economic development incentives to be disclosed under the Open Records Law. It also requires the IEDC's annual Job Creation Incentives and Compliance Report to be published on the Indiana Transparency Portal Internet web site.

The bill requires the IEDC and the Department of State Revenue to compile information on all job creation incentives granted, including the aggregate amount of uncollected or diverted state tax revenues resulting from each incentive, and requires this information to be included as part of the IEDC's annual Job Creation Incentives and Compliance Report. It requires the IEDC to recapture incentives from a recipient failing to make the level of capital investment, failing to create or retain the promised number of jobs, or paying less in wages than specified in the agreement. It requires the IEDC to compile information on all recapture activities and incentives recouped from unfulfilled commitments and to include the information as part of the IEDC's annual Job Creation Incentives and Compliance Report. The bill also requires incentive recipients to prepare an annual progress report on the number of jobs created or retained, employee pay, and various other information concerning the use of the job creation incentives, and requires the IEDC to compile this information and include it in the IEDC's annual Job Creation Incentives and Compliance Report. It repeals and replaces the definition of job creation incentive without change to maintain alphabetical order, and it makes technical corrections.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Department of State Revenue (DOR)*: This bill requires that the DOR report the aggregate amount of uncollected or diverted state tax revenues resulting from each tax credit to the IEDC on an annual basis. Any additional expense resulting from this provision should be minimal.

Indiana Economic Development Corporation: This bill makes changes to the IEDC's Job Creation Incentives and Compliance Report, which is submitted annually to the Governor and the Legislative Council. Some of the information required to be reported will be obtained through annual compliance reports submitted to the IEDC from recipients of job creation incentives. The bill also requires the IEDC to report the aggregate amount of uncollected or diverted state tax revenues resulting from each tax credit. This information will be provided to the IEDC by the DOR. In addition, the bill requires the IEDC to report on the outcomes and effectiveness of recapture programs and to provide a summary of the information submitted to the IEDC by the Certified Technology Parks.

These provisions will likely increase the administrative workload of the IEDC. Any additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

Explanation of State Revenues: *Recapture of IEDC Incentives*: If applicants do not comply with the provisions agreed to when receiving incentives, they must pay back the appropriate amounts. The fiscal impact is indeterminable because it will depend on the extent to which applicants violate the provisions of their incentive agreements.

This bill requires that the IEDC recapture incentives from a recipient that moves or closes, fails to make the specified level of capital investment, fails to create or retain the promised number of jobs, or pays less in wages than specified in the agreement for job creation incentives. Current statute provides that if the applicant moves or closes the business receiving incentives, then the applicant will pay back to the state the incentive received. Current statute also provides that if the IEDC finds that an applicant is employing fewer individuals than they agreed to employ in their application, then a hearing would be held to determine if the applicant should be required to pay part of the incentive received back to the state.

Capital Investment Credit Recapture: This bill amends the Capital Investment Credit so that the IEDC must require taxpayers that do not make the qualified investment agreed upon to repay the additional amount of state tax liability that would have been paid by the taxpayer if the credit had not been granted, plus interest. Current statute specifies that the IEDC may require the taxpayer to repay this amount.

The Capital Investment Credit is equal to 14% of the value of qualified investment in a business project having an estimated total cost of at least $75 M and is located in Shelby County. The total tax credit value must be divided equally over seven years. The credit is nonrefundable, but unused credits may be carried forward for up to three years. Unused credits may not be carried back. This tax credit may be applied against the individual or corporate AGI Tax, Financial Institutions Tax, and Insurance Premiums Tax liabilities.

Media Production Expenditure Tax Credit Recapture: This bill amends the Media Production Expenditure Tax Credit so that if a taxpayer fails to satisfy conditions agreed upon with the IEDC or fails to file tax returns, the IEDC must disallow the use of all or a part of any unused tax credit, recapture all or a part of the tax credit, or both. Current statute specifies that the IEDC may take these actions, but they are not required to do so.

The Media Production Expenditure Tax Credit is for qualified media production expenditures and is equal to 15% of qualified expenditures if the expenditure total is less than $6 M, and up to 15% of qualified expenditures as determined by the IEDC if the expenditure total is $6 M or more. Tax credits may not exceed $2.5 M in a fiscal year. The tax credit is refundable. The credit may be claimed against individual or corporate AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities. This tax credit expires December 31, 2011.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IEDC; DOR.

Local Agencies Affected:

Information Sources:

Fiscal Analyst: Jessica Harmon, 317-232-9854.